magnitude, yet now, after the event, it appears to have had its origin in a hazard connected with the employment and to have flowed from that source as a rational consequence. Tried by the test in McNicol's Case (215 Mass. 497, 499, 102 N. E. 697), the injury seems to have arisen in the course of the employment' (Reithel's Case, 222 Mass. 163, 165, 109 N. E. 951, 952).

"We are of opinion that so long as the employee, while in the performance of the employer's business, properly exercises the authority conferred upon him by his contract of employment, injuries received by him resulting from such employment arise out of the employment, and if death ensues, as in the case at bar, his dependents are entitled to compensation (McNicol's Case, 215 Mass. 497, 102 N. E. 697; Riethel's Case, 222 Mass. 163, 109 N. E. 951; Von Ette's Case, 223 Mass. 56, 111 N. E. 696; Harbroe's Case, 223 Mass. 139, 111 N. E. 709)."

Life Insurance—Assignment of Policy to One Having No Insurable Interest.—In Milliken *v.* Haner, 212 S. W. 605, the Court of Appeals of Kentucky held that an assignment of a life insurance policy to one having no insurable interest in the life of the insured is void as against public policy.

The court said: "On the main question presented by the appeal it is admitted that the defendant had no such insurable interest in the life of Henry E. Haner as would entitle him to have taken out the policies originally in his favor. It is further admitted that under the law as approved by this court and many others, and as also announced by all the text-writers, one who has no such insurable interest in the life of another cannot take out a policy on the latter's life payable to himself, since such transactions are wagering contracts and against public policy. Griffin's Adm'r *v.* Equitable Assurance Society, 119 Ky. 856, 84 S. W. 1164, 27 Ky. Law Rep. 313; Bromley *v.* Washington Life Ins. Co., 122 Ky. 402, 92 S. W. 17, 28 Ky. Law Rep. 1300, 5 L. R. A. (N. S.) 747, 121 Am. St. Rep. 467, 12 Ann. Cas. 685; Beard *v.* Sharp, 100 Ky. 606, 38 S. W. 1057, 18 Ky. Law Rep. 1029; Baldwin *v.* Haydon, 70 S. W. 300, 24 Ky. Law Rep. 900; Wrather *v.* Stacey, 82 S. W. 420, 26 Ky. Law Rep. 683; Lee *v.* Mutual Life Ins. Co., 82 S. W. 258, 26 Ky. Law Rep. 577; Barbour *v.* Larue, 106 Ky. 546, 51 S. W. 5, 21 Ky. Law Rep. 94; Basye *v.* Adams, 81 Ky. 368; Lockett *v.* Lockett, 80 S. W. 1152, 26 Ky. Law Rep. 300; Scott *v.* Scott, 77 S. W. 1122, 25 Ky. Law Rep. 1356; Adams *v.* Reed, 38 S. W 420, 18 Ky. Law Rep. 853, 35 L. R. A. 692; Bramblett *v.* Hargis, 123 Ky. 141, 94 S. W. 20, 29 Ky. Law Rep. 610; Hess *v.* Segenfelter, 127 Ky. 348, 105 S. W. 476, 36 Ky. Law Rep. 225, 14 L. R. A. (N. S.) 1112, 128 Am. St. Rep. 343; Western & Southern Life Ins. Co. *v.* Webster, 172 Ky. 444, 189 S. W. 429, L. R. A. 1917B, 375, Ann. Cas. 1917C, 271; Western & Southern Life Ins. Co. *v.* Nagel,

180 Ky. 476, 203 S. W. 192; and many other cases which could be cited.

"But, while admitting this general and universally applied principle of law, defendant's counsel insists that there is a sound distinction between procuring the issual of a policy in which the beneficiary has no insurable interest in the life of the insured and the assignment of a policy to one without insurable interest if the original beneficiary was one to whom the policy could be made payable within the rule requiring him to have an insurable interest. This alleged distinction is attempted to be maintained upon the theory that the policy, being valid when issued, is after that a mere chose in action and assignable as such. The courts in a few of the states adopt the distinction contended for, among them the Court of Appeals of New York, and we are cited to the case of Steinbeck *v.* Diepenbrock, 158 N. Y. 24, 52 N. E. 662, 44 L. R. A. 418, 70 Am. St. Rep. 424, in support of this contention. The opinion in that case seems to place the Court of Appeals of that state in line with the limited number recognizing the distinction contended for, but, after a careful reading of it, we are by no means convinced of the soundness of its reasoning in support of such distinction. In fact, we fail to find any reason in it which would relieve the assignment of a policy to one without an insurable interest in the life of the insured from being a wagering contract any less than the procuring of the policy originally by and for the benefit of one without such interest would be.

"The underlying reason for the rule forbidding the issual of such policies is that the stranger beneficiary is thereby given a financial interest in the quick termination of the insured's life, and to that extent has a motive to bring about that result; and, since such conditions might possibly eucourage crime, the rule has been invoked to prevent them from arising. We are unable to see why the same reason would not exist with reference to the assignment of a policy to one who was without legal interest in the life of the insured. We find no satisfactory reason for any difference between the two cases anywhere stated in the Steinbeck Case relied on, and the same is true with reference to the cases from other courts recognizing the distinction. But in the opinion rendered in that case the court referred to a number of cases denying the validity of an assignment of an insurance policy to one having no insurable interest in the life of the insured, among which are the cases of Warnock *v.* Davis, 104 U. S. 775, 26 L. Ed. 924, and Basye *v.* Adams, supra, from this court.

"The rule as announced by this court in the Basye Case has been approved by us in many subsequent cases, among which are Hess *v.* Segenfelter, supra; Irons *v.* United States Life Ins. Co. of New York, 128 Ky. 640, 108 S. W. 904, 38 Ky. Law Rep. 46, 129 Am. St.

Rep. 318; Schlamp *v.* Berner's Adm'r, 51 S. W. 312, 21 Ky. Law Rep. 324; New York Life Ins. Co. *v.* Brown's Adm'r, 139 Ky. 711, 66 S. W. 613, 23 Ky. Law Rep. 2070; Western & Southern Life Ins. Co. *v.* Nagel and Western & Southern Life Ins. Co. *v.* Webster, supra."

The holding of the Virginia court is in line with the above case. See Crismond *v.* Jones, 117 Va. 34, 83 S. E. 1045, and cases cited.

Principal and Agent—Election to Proceed against Agent—Action against Principal Barred.—In Georgi *v.* Texas Co., 122 N. E. 238, the Court of Appeals of New York held that where creditor proceeds against an agent after full knowledge of agency and recovers a judgment, he will be deemed to have made his election and cannot maintain an action thereafter against the principal.

The court said in part: "Where goods have been sold to an agent whose agency and principal were not known and the claim has been prosecuted to a judgment, a recovery may nevertheless be had against the actual principal when the facts are disclosed. If, however, the creditor proceeds against the agent after full knowledge of the agency and recovers a judgment, an action may not thereafter be maintained against the principal. The election to recover from the agent is then a bar to other proceedings.

"The question of election implies full knowledge of the facts necessary to enable a party to make an intelligent and deliberate choice. Lindquist *v.* Dickson, 98 Minn. 369, 107 N. W. 958, 6 L. R. A. (N. S.) 729, 8 Ann. Cas. 1024. Knowledge of the right to recover from the principal is essential before suit aganst the agent may be regarded as an election to look to the latter, alone for payment. Without knowing who the principal is or the fact of agency, an intelligent election is impossible. Steele-Smith Grocery Co. *v.* Potthast, 109 Iowa, 413, 80 N. W. 517. When a person contracts with another who is in fact an agent of an undisclosed principal, he may upon discovery of the principal resort to him or to the agent with whom he dealt, at his election; but if, after having come to a knowledge of all the facts, he elects to hold the agent, he cannot afterwards resort to the principal. When a creditor after all the facts have become known to him obtains a judgment against the agent, this is an election to resort to the agent to whom the credit was originally given and is a bar to an action against the principal. Kingsley *v.* Davis, 104 Mass. 178.

"The following authorities also justify this statement of the rule: De Remer *v.* Brown, 165 N. Y. 410, 59 N. E. 129; Knapp *v.* Simon, 96 N. Y. 284, 286; Tuthill *v.* Wilson, 90 N. Y. 423; Cobb *v.* Knapp, 71 N. Y. 348, 27 Am. Rep. 51; Coleman *v.* First National Bank of Elmira, 53 N. Y. 388; Meeker *v.* Claghorn, 44 N. Y. 349; Sweeney *v.* Douglas Copper Co., 149 App. Div. 569, 134 N. Y. Supp. 247; Remmel *v.* Townsend, 83 Hun, 353, 31 N. Y. Supp. 985; Barrell *v.* Newby, 127 Fed. 656, 62 C. C. A. 382."